



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/043,406	03/18/1998	PAUL D O'BRIEN	36-1148	6681

7590 06/04/2002

NIXON & VANDERHYE
1100 NORTH GLEBE ROAD
8TH FLOOR
ARLINGTON, VA 222014714

EXAMINER

ROBINSON BOYCE, AKIBA K

ART UNIT	PAPER NUMBER
----------	--------------

3623

DATE MAILED: 06/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SK

Office Action Summary	Application No.	Applicant(s)	
	09/043,406	O'BRIEN, ET AL	
	Examiner	Art Unit	
	Akiba K Robinson-Boyce	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 44-48 and 50-60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 44-48 and 50-60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 16
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

The request filed on 4/19/02 for a Request for Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 09/043406 is acceptable and a RCE has been established. An action on the RCE follows.

Status of Claims

Claims 44-48 and 50-60 are pending in this application.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 45-49 are rejected under 35 U.S.C. 102(b) as being anticipated by Babayev, et al (US Patent 5,615,121) .

As per claims 45-47, Babayev, et al discloses:

receiving a service request...(Col. 14, lines 35-40);

identifying component processes...(Col. 5, line 27-Col. 6, line 38);

establishing conditions...(Col. 2, line 64-Col. 3, line 3);

accessing an up-datable data store...(Col. 2, lines 48-56 read with Col. 15, lines 41-56, where the examiner is interpreting the time interval constraints of Babayev, et al as the conditions of the present invention);

providing a response to the service request...(Col. 1, lines 7-9, Col. 14, lines 55-57, Col. 3, line 65-Col. 4, line 6);

wherein a service request is processed by accessing one or more of the previously established...(Col. 2, lines 48-56, Col. 15, lines 31-40, where the examiner is interpreting the time interval constraints of Babayev, et al as the conditions of the present invention).

wherein one or more of said established conditions has an associated expiry time of the one or more conditions itself...(Col. 2, lines 48-56);

an expired or unidentified condition is detected in the data store...a substitute condition is established...(Col. 7, lines 15-22 and lines 37-54, [condition is not met]). The following is inherent with Babayev, et al's system because with current technology such as the Internet, modern computer environments are known to be distributed in order to accommodate a vast amount of users:

a distributed processing environment...

As per claim 48, Babayev, et al discloses:

initiating one or more of said component processes identified for use in the requested service...(Col. 7, lines 55-60).

As per claim 49, Babayev, et al discloses:

provisioning a requested service requires provision of a selected set of component processes...(Fig.'s 2A-2E);

the negotiating means establishes and stores a set of conditions...(Col. 6, lines 36-44);

a service request is processed...(Col. 2, lines 48-56, Col. 15, lines 31-40, where the examiner is interpreting the time interval constraints of Babayev, et al as the conditions of the present invention).

Claims 50, 51, 57, 58, 59, 60 are rejected under 35 U.S.C. 102(b) as being anticipated by Wrabetz, et al (5442,791).

As per claim 50, Wrabetz, et al discloses:

programmed computer means for negotiating with another entity...(Col. 7, lines 55-58, Col. 10, lines 49-53);

means for accessing one or more resources...(Col. 9, lines 36-41);

said negotiating means including a data store...(Col. 14, lines 49-54);

means to update said data...on the basis of the past performance...(Col. 26, lines 39-42).

As per claim 57, Wrabetz, et al discloses:

which further comprises initiation means to initiate one or more component processes in provision...(Abstract, lines 26-31).

As per claim 58, Wrabetz, et al discloses:

provisioning a requested service requires provision of a selected set of component processes...(Abstract, lines 36-41);

the negotiation means establishes and stores a set of conditions...(Col. 20, lines 53-56);

the processing means is adapted to process a service request by accessing the stored set of conditions...(Col. 14, lines 49-53, Col. 16, lines 42-49).

As per claim 59, Wrabetz, et al discloses:

using a programmed computer to negotiate with another entity...(Col. 7, lines 55-58, Col. 10, lines 49-53);

accessing one or more resources...(Col. 9, lines 36-41);

said negotiating means including use of a data store...(Col. 14, lines 49-54);

updating said data on the basis of the past performance...(Col. 26, lines 39-42).

As per claim 60, Wrabetz, et al discloses:
receiving a service request...(Abstract, lines 1-5, Col. 16, lines 22-24);
processing a service request...(Col. 7, lines 55-63, Col. 14, lines 49-54);
accessing an up-datable data store...(Col. 20, lines 53-56);
wherein said plural instances are connected by a communications network...(Col. 7, lines 54-67, Col. 10, lines 40-53);
wherein each of said method instances is associated with a plurality of organizations...(Abstract, lines 1-5, [network is heterogeneous], Col. 2, lines 16-17, lines 25-27, lines 36-37).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 51, 52, 53, 54-56, 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wrabetz, et al, and further in view of Babayev, et al.

As per claims 51, Wrabetz, et al discloses:
an input connected to a distributed processing environment for receiving a service request...(Abstract, lines 1-5, Col. 16, lines 22-24);

a response output...(Col. 7, lines 55-63, Col 8, lines 1-7, [execution interface],
Col. 16, lines 58-60);

processing means...(Col. 7, lines 55-63, Col. 14, lines 49-54, Col. 16, lines 26-
33);

means to access the data store...(Col. 20, lines 53-56);
wherein said plural systems are connected by a communications network...(Col.
7, lines 54-67, Col. 10, lines 40-53);

wherein each of said systems is associated with a plurality of
organizations...(Abstract, lines 1-5, [network is heterogeneous], Col. 2, lines 16-17, lines
25-27, lines 36-37).

Wrabetz, et al fails to disclose the following, however Babayev, et al discloses:

At least one of the systems is arranged to provide more than one instance of a
service, or a negotiation for a service to one or more requesting services
concurrently...(Col. 3, lines 12-20).

It would have been obvious to one of ordinary skill in the art to provide more than one
instance of a service, or a negotiation for a service to one or more requesting services
concurrently with the motivation of giving the user the option to select from a plurality of
services in order to satisfy the user's needs.

As per claims 52, 44, Wrabetz, et al fails to teach the following, however
Babayev, et al discloses:

wherein the virtual organization exists for a predetermined period...(Col. 16, lines
1-2).

Art Unit: 3623

It would have been obvious to one of ordinary skill in the art for the organization to exist for a predetermined period in order to make sure that service requests are fulfilled in a reasonable amount of time.

As per claims 53, Wrabetz, et al discloses:

an input connected to a distributed processing environment for receiving a service request...(Abstract, lines 1-5, Col. 16, lines 22-24);

service request processing means...(Col. 7, lines 55-63, Col. 14, lines 49-54);

an up-datable data store...means to access said up-datable data store...(Col. 20, lines 53-56, where the resource manager component handles the component processes);

an output for providing a response...(Col. 7, lines 55-63, Col 8, lines 1-7, [execution interface], Col. 16, lines 58-60);

wherein the processing means is adapted to process a service request by accessing one or more of the previously established conditions...(Col. 14, lines 49-53, Col. 16, lines 42-49).

Wrabetz, et al fails to teach the following, however Babayev, et al discloses:

negotiation means for use in establishing conditions.....(Col. 3, lines 12-20).

It would have been obvious to one of ordinary skill in the art to provide more than one instance of a service, or negotiation means for a service to one or more requesting services concurrently with the motivation of giving the user the option to select from a plurality of services in order to satisfy the user's needs.

As per claim 54, Wrabetz, et al fails to teach the following, however Babayev, et al discloses:

wherein one or more of said established conditions has an associated expiry time of the one or more conditions itself...(Col. 2, lines 48-56).

It would have been obvious to one of ordinary skill in the art for one or more of the established conditions to have an associated expiry time in order to accommodate for each individual service, which must satisfy separate conditions.

As per claim 55, Wrabetz, et al fails to teach the following, however Babayev, et al discloses:

wherein said processing means is adapted to detect an expired or unidentified condition in the data store...to establish a substitute condition...(Col. 7, lines 15-22 and lines 37-54, [condition is not met]).

It would have been obvious to one of ordinary skill in the art to establish a substitute condition if an expired or unidentified condition is detected in order to guarantee that a service, which has been requested, meets conditions, which were defined for that service.

As per claim 56, Wrabetz, et al discloses:

means to access said data store for storing data related to services....(Col. 20, lines 53-56).

Response to Arguments

Applicant's arguments filed 4/19/02 have been fully considered but they are not persuasive.

As per claim 45, the applicant argues that Babayev, et al fails to disclose "identifying component processes for use in provisioning the requested service". However, Babayev, et al discloses this feature in Col. 5, line 27-Col. 6, line 38. In Babayev, et al, the data that the computer processes are the data structures of Babayev, et al which are also analogous to component processes since component processes are used in provisioning requested services in the present invention and the data structures provision service requests in col. 5, lines 33-34, where r identifies the service request. In addition, the resource allocation model of col. 6, lines 36-41 for scheduled resources described in terms of defined data structures is used in provisioning the requested service.

As per claims 46-49, the applicant argues that these claims require the identification of "component processes" as well. As explained above with respect to claim 45, Babayev, et al discloses these "component processes" in Col. 5, line 27-Col. 6, line 38.

As per claim 46, the applicant argues that the Babayev, et al reference fails to disclose "identifying component processes...wherein one or more of said established conditions has an associated expiry time of the one or more conditions itself for storage in the data store." As explained with respect to claim 45, Babayev, et al discloses these "component processes" in Col. 5, line 27-Col. 6, line 38. In addition, looking at Col. 2, lines 23-27, lines 47-56 and col. 2, line 64-Col. 3, line 3, Babayev, et al describes a set

of constraints (analogous to conditions of the present invention) for a particular service time. In other words the constraints will only be applicable during a specified period of time, and afterwards will not apply.

As per claim 47, the applicant argues that Babayev, et al fails to disclose "identifying component processes" and "wherein one or more of said established conditions has an associated expiry time of the one or more conditions itself". However, Babayev, et al discloses these features as explained above with respect to claim 46. In addition, the applicant argues that Babayev, et al fails to disclose "an expired or unidentified condition is detected in the data store, which condition is applicable to a component process for the provision of a requested service and a substitute condition is established in response to said detection." However, Babayev, et al discloses this feature in Col. 7, lines 37-39. Here, the objective function is discussed, however, col. 7, lines 49-52 also discloses that the objective function can be used with constraints as well.

As per claim 48, the applicant argues that the examiner's interpretation of the requested service of the present invention in claim 48 does not match that of claim 45. However, the examiner has cited col. 7, lines 55-60. Here, Babayev, et al refers to the initialization of the scheduler which is analogous to the initiation to one or more component processes which are derived from requested services since tasks are allocated to resources.

As per claim 50, the applicant argues that Wrabetz fails to disclose "means to update said data about said system on the basis of the past performance of the

Art Unit: 3623

system". However, in Col. 26, lines 39-42, Wrabetz disclose an updat_nw_res_instance which is used to commit the latest property value information (update this information) about a previously created or requested resource instance where the previously created or requested resource instance is analogous to the past performance. The applicant also argues that the Wrabetz reference fails to teach "programmed computer means for negotiating with another entity" in response to a request from said other entity to provide a service. However, this feature is disclosed in col 7, lines 55-63 where the other entity is analogous to the remote request. In addition this remote request is conditional since each request differs according to the requestor.

As per claims 44, 59 and 60, these claims are argued the same way as claim 50 and is therefore rejected for the same reasons as claim 50.

In addition, as per claims 44 and 52, the applicant argues that these claims require "wherein the virtual organization exists for a predetermined period". Babayev, et al discloses this feature in Col. 16, lines 1-2 where the "organization" are the host/users which make up the computer network and the users of the computer network are analogous to the customers who submit requests.

The applicant argues that the motivation for combining the Wrabetz, et al and the Babayev, et al references are not valid. However, the combination is valid since both references disclose the allocation of service requests to resources (tasks).

Applicant's arguments with respect to claims 51, 53, have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Art Unit: 3623

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Akiba K Robinson-Boyce whose telephone number is 703-305-1340. The examiner can normally be reached on Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7238 [After final communications, labeled "Box AF"], 703-746-7239 [Official Communications], and 703-746-7150 [Informal/Draft Communications, labeled "PROPOSED" or "DRAFT"].

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

A. R. B.
A. R. B.
May 30, 2002


KYLE J. CHOI
PRIMARY EXAMINER
Art Unit 3623